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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/773,309	02/09/2004	Mario Ricco	Q79720	1080
23373	7590	07/27/2004	EXAMINER	
SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037				BELLAMY, TAMIKO D
		ART UNIT		PAPER NUMBER
		2856		

DATE MAILED: 07/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/773,309	RICCO ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Tamiko D. Bellamy	2856	-

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 09 February 2004.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-7 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-7 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 09 February 2004 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-5, and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Kubler (3,976,963).

Re to claims 1 and 2, Kubler discloses a floating member (2), a transducer sensitive means (e.g. reed switches 4/14), and a float (2) that is a vertically slidably guided (e.g, tube 1) in a tank.

Re to claim 3, Kubler discloses the guide column (e.g., tube 1) is made of a non-magnetized material such as plastic (col. 3, lines 35-37).

Re to claim 4, Kubler discloses an annular permanent magnet (3) (col. 3, line39).

Re to claim 5, as depicted in fig. 1, Kubler discloses that the floating member (2) has a cylindrical conformation.

Re to claim 6, the device of Kubler is inherently used in a tank for LPG.

3. Claims 1-5, and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Levins (3,200,645).

Re to claims 1 and 2, Levins discloses a floating member (18), a transducer sensitive means (e.g. any suitable magnetically actuated switches 5) (col. 4, lines 62-63), and a float (18) that is a vertically slidably guided (e.g., housing 4) in a tank.

Re to claim 3, Levins discloses the guide column (e.g., housing 4) is inherently made of a non-magnetized material.

Re to claim 4, Levins discloses a permanent magnet (20).

Re to claim 5, as depicted in fig. 1, Levins discloses that the floating member (18) has a cylindrical conformation.

Re to claim 6, the device of Levins is inherently used in a tank for LPG.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 6 rejected under 35 U.S.C. 103(a) as being unpatentable over Kubler (3,976,963) in view of Guerrini et al. (4,702,107).

Re to claim 6, Kubler discloses a support column (e.g., tube 2) and a floating member (2). Kubler lacks the detail of the support column and the floating member enclosed in a cylindrical container having an opening for communication of the cavity inside the cylindrical container with the remaining part of space inside the tank. As depicted in fig. 1, Guerrini et al. discloses (a cylindrical container (12) having a opening (s) (17/18) for communicating the cavity inside the container (12) with the remaining space inside the tank (13). Therefore, to modify Kubler by employing a cylindrical cylinder with an opening would have been obvious to one of ordinary skill in the art at the time of the invention since Guerrini et al. teaches a device for detecting the level of

liquid having theses design characteristics. The skilled artisan would be motivated to combine the teachings of Kubler and Guerrini et al. since Kubler states that his invention is applicable to a device for indicating filling level (col. 4, line 28) and Guerrini et al. is directed to detecting the level of liquid contained in a tank.

6. Claim 6 rejected under 35 U.S.C. 103(a) as being unpatentable over Levins (3,200,645) in view of Guerrini et al. (4,702,107).

Re to claim 6, Levins discloses a support column (e.g., housing 2) and a floating member (18). Levins lacks the detail of the support column and the floating member enclosed in a cylindrical container having an opening for communication of the cavity inside the cylindrical container with the remaining part of space inside the tank. As depicted in fig. 1, Guerrini et al. discloses (a cylindrical container (12) having a opening (s) (17/18) for communicating the cavity inside the container (12) with the remaining space inside the tank (13). Therefore, to modify Levins by employing a cylindrical cylinder with an opening would have been obvious to one of ordinary skill in the art at the time of the invention since Guerrini et al. teaches a device for detecting the level of liquid having theses design characteristics. The skilled artisan would be motivated to combine the teachings of Levins and Guerrini et al. since Levins states that his invention is applicable to a device for indicating the level of fluid in a tank (3) and Guerrini et al. is directed to detecting the level of liquid contained in a tank.

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to the applicant's disclosure.

Art Unit: 2856

The following patents are cited to further show the state of art with respect to a float with a vertically guided column containing switches:

U.S. Pat. No. (5,829,303) as to Fraser.

U.S. Pat. No. (5,347,864) as to Senghaas et al..

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tamiko D. Bellamy whose telephone number is (571) 272-2190. The examiner can normally be reached on Mondays, Tuesdays & Fridays 6:30 AM to 3:30PM; and on Wednesdays and Thursdays the examiner 6:30 AM to 11:30 AM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron Williams can be reached on (571) 272-2208. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Tamiko Bellamy

T.B.

July 12, 2004

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